

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
ANGEL DIAZ,

Petitioner,

-against-

WILLIAM F. KEYSER,

Respondent.
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ORDER

20 Civ. 5469 (NSR) (PED)

On July 14, 2020, *pro se* petitioner Angel Diaz filed a Petition for a Writ of Habeas Corpus pursuant to 28 U.S.C. 2254 (Dkt. #2), seeking habeas relief on the ground that his conditions of confinement during the Covid-19 pandemic render his sentence unconstitutional. On October 23, 2020 respondent filed a Motion to Dismiss (Dkt. #10) arguing that petitioner's claim is unexhausted and not cognizable on habeas review.

By letter dated October 27, 2020 (Dkt. #11), petitioner requested a stay of proceedings to allow him to exhaust his claim. On November 18, 2020, Judge Román granted petitioner's request, stayed the proceedings and denied respondent's motion to dismiss without prejudice. Dkt. #13. On March 15, 2021, Judge Román referred the case to the undersigned for a Report and Recommendation. Dkt. #14.

By letter dated September 7, 2021 (Dkt. #16), petitioner requested that the stay be lifted on the ground that the New York Court of Appeals denied his claim (and, thus, it was now fully exhausted). On September 20, 2021, Judge Román lifted the stay. Dkt. #17.

Accordingly, respondent shall file and serve any response/motion within thirty (30) days of the date of this Order. Petitioner may file and serve reply papers, if any, within thirty days from the date he is served with respondent's submission.

Dated: September 21, 2021
White Plains, New York

SO ORDERED.


PAUL E. DAVISON, U.S.M.J.

Chambers has mailed a copy of this Order to petitioner, who remains incarcerated at Sullivan County Correctional Facility in Fallsburg, New York.